

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19815
[REDACTED],)	
)	DECISION
Petitioners.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting the property tax reduction benefit for 2006. This matter was submitted for a decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision based on its contents.

All property within the jurisdiction of this state is subject to property tax. A property tax reduction benefit is available to certain qualifying individuals. The benefit is in the form of payment of all or a portion of the applicant's property tax on the dwelling he/she owns and occupies. The payment is funded by state sales tax. The amount of property tax reduction depends on income--the greater the income, the smaller the benefit.

[Redacted] (petitioners) submitted an application for a property tax reduction benefit on March 27, 2006. After the April 17, 2006, deadline for filing passed, the staff [Redacted] sent that application, together with the other applications, to the Tax Commission for review and processing.

Income for the property tax reduction benefit purposes is defined in Idaho Code § 63-701 as income received in the calendar year immediately preceding the year in which a claim is filed. The calculation of income starts with federal adjusted gross income and, thereafter, makes certain additions and deductions.

The petitioners' application listed social security of \$6,780 and \$2,892, interest of \$3,390, and other income of \$3,000. The total income of \$16,062 was reduced by \$2,627 of

medical expenses which would qualify them for a property tax reduction benefit of an amount not to exceed \$1,160.

[Redacted] Additional income was identified. Capital gains from the \$85,003 sale of property [Redacted] and capital gains from the \$91,900 sale of property [Redacted] had not been listed.

The additional income would increase the petitioners' 2005 income beyond the \$28,000 maximum allowed for a minimum benefit. The staff sent the petitioners a letter advising them of the intent to deny their benefit. The petitioners appealed, and the file was transferred to the Legal/Tax Policy Division for administrative review.

Idaho Code § 63-701(5) describes income as:

(5) "Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and to the extent not already included in federal adjusted gross income:

(a) Alimony;

(b) Support money;

(c) Nontaxable strike benefits;

(d) The nontaxable amount of any individual retirement account, pension or annuity, (including railroad retirement benefits, all payments received under the federal social security act except the social security death benefit as specified in this subsection, state unemployment insurance laws, and veterans disability pensions and compensation, excluding any return of principal paid by the recipient of an annuity and excluding rollovers as provided in section 402 or 403 of the Internal Revenue Code);

(e) Nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities;

(f) Worker's compensation; and

(g) The gross amount of loss of earnings insurance.

It does not include gifts from nongovernmental sources or inheritances. To the extent not reimbursed, the cost of medical care as defined in section 213(d) of the Internal Revenue Code, incurred or paid by the claimant and, if married, the claimant's spouse, may be deducted from income. To the extent not reimbursed, personal funeral expenses, including prepaid funeral expenses and premiums on funeral insurance, of the claimant and claimant's

spouse only, may be deducted from income up to an annual maximum of five thousand dollars (\$5,000) per claim. "Income" does not include veterans disability pensions received by a person described in subsection (1)(e) who is a claimant or a claimant's spouse if the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more. "Income" does not include dependency and indemnity compensation or death benefits paid to a person described in subsection (1) of this section by the United States department of veterans affairs and arising from a service-connected death or disability. "Income" does not include lump sum death benefits made by the social security administration pursuant to 42 U.S.C. section 402(i). Documentation of medical expenses may be required by the county assessor, board of equalization and state tax commission in such form as the county assessor, board of equalization or state tax commission shall determine. "Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed. Where a claimant and/or the claimant's spouse does not file a federal tax return, the claimant's and/or the claimant's spouse's federal adjusted gross income, for purposes of this section, shall be an income equivalent to federal adjusted gross income had the claimant and/or the claimant's spouse filed a federal tax return, as determined by the county assessor. The county assessor, board of equalization or state tax commission may require documentation of income in such form as each shall determine, including, but not limited to: copies of federal or state tax returns and any attachments thereto; and income reporting forms such as the W2 and 1099.

During the appeal process, the petitioners submitted several additional documents for the Tax Commission's consideration. These documents included settlement statements for the purchase and later 2005 sale of real properties [Redacted]. A copy of a revised agreement for the sale of [Redacted] property from which the petitioners received payments in 2005 was also provided.

The petitioners submitted the following statement that was signed [Redacted]: "APARTMENT RENT 3/30/2006 [Redacted] paid [Redacted] \$210.00 dollars a month rent for the year of 2005." Below that statement was a handwritten note that said: "Of this \$210.00 per month, \$60.00 dollars goes toward the utilities of the unit. Leaving \$150.00 for Rental Income."

The handwritten note was signed [Redacted]. [Redacted] stated, during a telephone conversation with the Tax Appeals Specialist, that the rental apartment is located in the basement of their home.

Pursuant to the Tax Commission's request, the petitioners sent a copy of a 1040 federal income tax return for 2005. The return included a Schedule E, Supplemental Income and Loss, showing the income from renting the property [Redacted]. The Schedule E showed a loss in the amount of negative \$3,389. A Form 6252, Installment Sale Income, reflected the terms of the contract sale of the [Redacted] property with a capital gain of \$156.

The only Schedule E submitted with the return was for the rent received from the property [Redacted] before it was sold. The 2005 federal return listed \$2,718 of interest, capital gains of \$156, rental real estate of minus \$3,389, and a deduction of \$16,074 listed on line 36 of the form for something called "PPR." In response to the Tax Commission's request for a copy of the Schedule for the PPR, the petitioners sent a hand written statement:

PPR	\$16,074.00
Repairs To Rentals	
Repairs & Materials & Labor	
Furnice [sic]	3,225.00
Supplies & Rep.	12,849.00
Labor	<u>-0-</u>
	\$16,074.00

The information provided by the petitioners leaves many questions regarding their federal adjusted gross income. In 2005, they received payments from the contract sale of real property [Redacted]. They listed only the interest portion of the income in the application. They provided no explanation of the capital gains from that contract sale. They received payments in 2005 for the contract sale of a 1988 mobile home. Again, only the interest portion of the payment was accounted for in the application. According to the Settlement Statement for the sale of the

[Redacted] property, the petitioners received income from the rental of property [Redacted]. None of the income was listed in the application or the income tax return.

The copy of a 2005 federal income tax return was provided to establish the petitioners' federal adjusted gross income. The information contained in that return does not match Tax Commission records. The petitioners have not established the amount of their federal adjusted gross income.

IDAPA 35, Title 01, Chapter 03, Property Tax Administrative Rule 600 states: **“PROPERTY EXEMPT FROM TAXATION.** The burden of proof of entitlement to the exemption is on the person claiming exemption for the property.” The petitioners have not provided proof that they are entitled to receive the 2006 property tax reduction benefit. They must be denied the benefit.

The State Tax Commission is aware there is some potential this decision could cause a hardship to the applicant for property tax reduction in certain circumstances. The proper jurisdiction to handle such hardship situations falls with the county commissioners pursuant to Idaho Code § 63-711.

WHEREFORE, the Intent to Deny Property Tax Benefit letter dated October 17, 2006, is APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the petitioners' right to appeal this decision is included with this decision.

DATED this _____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]
[REDACTED]

Receipt No.
